STATE BOARD OF EQUALIZATION
STAFF LEGISLATIVE BILL ANALYSIS

Date Amended	**6/29/00**	Bill No:	**AB 1966**
Tax:	**Property**	Author:	**Wiggins**
Board Position:	**Support Concept**	Related Bills:	

BILL SUMMARY:

This measure would exclude from supplemental assessment newly created taxable possessory interests, established by month-to-month agreements in publicly owned real property, having a full cash value of fifty thousand dollars ($50,000) or less.

ANALYSIS:

Current Law:

Under existing law the person who owns or controls property on the lien date, January 1, is responsible for paying taxes on the property for the ensuing fiscal year (July 1 to June 30)[1] via the regular tax bill. Consequently, under existing law, situations occur in which taxpayers are responsible for payment of taxes for a fiscal year even though they do not own or control property for any period of that fiscal year (or, with respect to possessory interests, where they have vacated the property after January 1).

Also, under current law, a taxpayer who acquires a possessory interest created after the lien date is immediately assessed for the remainder of the tax year via a supplemental assessment. However, a taxpayer who terminates possession after the lien date is not given the benefit of a "negative" supplemental assessment to refund taxes for the remainder of the tax year. Unlike other types of real property and personal property, when a possessory interest is involved, it is possible that government can receive two streams of property tax revenue from two separate leases of the same physical piece of real property.[2] This is illustrated in the example below. Pilot A has rented an aircraft hanger, Hanger B-2, at a public airport for the last five years. On January 2, 2000, Pilot A terminates the month-to-month rental agreement on Hanger B-2 to move to a more desirable aircraft hanger, Hanger A-1, at the same airport. Hanger B-2 is immediately rented out to Pilot B. As noted in the table below, under existing law property taxes are collected from both Pilot A and Pilot B on Hanger B-2 for a nearly 18 month period from January 2, 2000 to June 30, 2001, thus giving rise to a perception of "double taxation." In addition, from Pilot A's perspective, he is paying property taxes on two hangers from January 2, 2000 to June 30, 2001, although he only has use of one.

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[1] Tax bills on the secured roll are generally mailed to property owners at the end of October and tax bills for the unsecured roll are generally mailed at the end of July.

[2] Personal property is not subject to supplemental assessment. Real property is subject to supplemental assessment, but taxes for the regular assessment roll are generally prorated between the buyer and seller in escrow, thus with the combination of the issuance of supplemental assessments and proration of the regular tax bill, each party pays only their proper share of taxes.

Hanger	Pilot A	Pilot B
B-2	Fiscal Year 1999-2000 (7/1/99 - 6/30/00) and Fiscal Year 2000-2001 (7/1/00 - 6/30/01) via the regular tax bills	Fiscal Year 1999-2000 (1/2/00 - 6/30/00) and Fiscal Year 2000-2001 (7/1/00 - 6/30/01) via two supplemental assessments
A-1	Fiscal Year 1999-2000 (1/2/00 - 6/30/00) and Fiscal Year 2000-2001 (7/1/00 - 6/30/01) via two supplemental assessments	N/A

Proposed Law:

This bill would exempt certain possessory interests from immediate taxation upon the date of acquisition via a supplemental assessment. Instead, taxes would not be levied until the following lien date (January 1) for the ensuing fiscal year (July 1 to June 30). By excluding these assessments from supplemental assessment, taxation is delayed until the next lien date. This delay in taxation in the first year of acquisition is intended to offset the taxes that will be owed in the year that possession terminates. Also, this change in law would ensure that government receives only one stream of tax revenue from each property subject to more than one exclusive possessory interest during a given year, as noted in the table below. (The strike out indicates the tax bills which this proposal would eliminate.)

Hanger	Pilot A	Pilot B
B-2	Fiscal Year 1999-2000 **(7/1/99 - 6/30/00)** and Fiscal Year 2000-2001 **(7/1/00 - 6/30/01)** via the regular tax bills	~~Fiscal Year 1999-2000~~ ~~(1/2/00 - 6/30/00)~~ ~~and~~ ~~Fiscal Year 2000-2001~~ ~~(7/1/00 - 6/30/01)~~ ~~via two supplemental assessments~~ Fiscal Year 2001-2002 **(7/1/01 – 6/30/02)** via the regular tax bill.
A-1	~~Fiscal Year 1999-2000~~ ~~(1/2/00 - 6/30/00)~~ ~~and~~ ~~Fiscal Year 2000-2001~~ ~~(7/1/00 - 6/30/01)~~ ~~via two supplemental assessments~~ Fiscal Year 2001-2002 **(7/1/01 – 6/30/02)** via the regular tax bill.	N/A

In General:

The Lien Date. The Revenue and Taxation Code provides that the county assessor must locate, describe, classify, estimate the value of, and identify the assessee of every locally-assessed taxable property in the county as of the lien date (January 1). This information must be listed on the assessment roll and delivered to the county auditor on or before July 1. Since it is impossible to do all of this work instantaneously, the Revenue and Taxation Code provides that the assessment will be made as of the lien date preceding the fiscal year for which the taxes are levied. Thus, the owner of property on January 1 is responsible for the property taxes on that property for the ensuing fiscal year July 1 - June 30. The owner of record on the lien date is responsible for the taxes even if the property owner sells or otherwise disposes of that property at anytime after the lien date. There is no provision in the code to prorate taxes if ownership of the property is terminated after the lien date. With real property, proration of an outstanding tax liability is usually handled in escrow. A transfer of real property, however, generally is a matter of agreement between private parties and involves only one transferred fee interest rather than the respective termination and creation of separate taxable possessory interests on a single property during the course of a year.

Possessory Interests. In certain instances, a property tax assessment may be levied when a person or entity possesses publicly-owned real property that, with respect to its public owner, is either immune or exempt from property taxation. These uses are commonly referred to as "taxable possessory interests" and are typically found when an individual or entity leases or otherwise takes possession of government-owned real property.

Background:

Under existing law, the person who owns or controls property on the lien date, January 1, is responsible for paying taxes on the property for the ensuing fiscal year (July 1 to June 30)[3]. Consequently, under existing law, situations occur in which taxpayers are responsible for payment of taxes for a fiscal year even though they do not own or control property for any period of the fiscal year (or with respect to possessory interests where they have vacated after January 1). This is not generally an issue with real estate sold between private parties since the escrow company involved in the transaction routinely prorates both current and pending property taxes between the buyer and the seller. But it can be an issue with personal property (i.e. boats, planes, and business personal property used in a trade, profession or business) and taxable possessory interests.

With respect to personal property sold between private parties, an agreement can be reached between the parties to either adjust the selling price to reflect property taxes, have the buyer assume responsibility for the upcoming tax bill, or prorate current outstanding property taxes. The issue of property taxes can often be overlooked, however, when private parties sell items of personal property subject to property tax. Sellers who fail to consider property taxes often have been unpleasantly surprised to

[3] Tax bills on the secured roll are generally mailed to property owners at the end of October and tax bills for the unsecured roll are generally mailed at the end of July.

receive a tax bill, for which they are legally responsible many months after the property has been sold.

With respect to taxable possessory interests, however, it generally is not possible to prorate property taxes when one terminates and another commences because (1) the agreement is not between the two property users but between a governmental entity and the users and (2) each taxable possessory interest is considered to be a separate interest in real property. In addition, although there are provisions of law which allow the county to assess a new possessory interest created after the lien date via a supplemental assessment, there is no provision that would permit the county to cancel the taxes on possessory interests terminated after the lien date, either via a "negative" supplemental assessment or a cancellation of the prior tax bill.

COMMENTS:

1. **Sponsor and Purpose.** The measure is sponsored by the author. Its purpose is to address the perceived inequity that occurs when a possessory interest is terminated after the lien date.

2. **Amendments.** The June 13 amendment recast the proposed solution to the problem of double taxation to eliminate certain possessory interests from supplemental assessment. Specifically, that amendment would exempt from supplemental assessment the creation of month-to-month possessory interests with a value of $50,000 or less. This alternative approach was taken to remove the opposition of Los Angeles County over the prior version of the bill, which would have required the cancellation of the tax bill. The June 29 amendment corrects a drafting error that would have inadvertently excluded mobilehomes from supplemental assessment.

COST ESTIMATE:

The Board would incur some minor, absorbable costs in informing and advising county assessors, the public, and staff of the change in law.

REVENUE ESTIMATE:

Background, Methodology, and Assumptions

It is difficult to predict the number of taxable possessory interests that are established each year by month-to-month agreements and the value of the affected interests. However, it is likely that the number of interests statewide that would be potentially affected is relatively small, under 200 per year.

Newly created taxable possessory interests in Los Angeles County would probably not be affected by this proposal. Under the county's current practices, such interests are not assessed on the supplemental tax roll. Assuming that Los Angeles County comprises 25 percent of the statewide total, the estimated number of affected interests is 75 percent x 200 or 150. The estimated total assessed value affected by this proposal is then less than 150 x $50,000 or $7.5 million annually.

Revenue Summary

The statewide annual revenue loss at the basic one percent property tax rate under this proposal is less than $7.5 million x 1 percent, or $75,000.

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This staff analysis is provided to address various administrative, cost, revenue and policy issues; it is not to be construed to reflect or suggest the Board's formal position.